6/9

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,345	07/14/2003	James K. Lavin		1344

			EXAMINER
7590	10/04/2006		EBIRIM, EMEKA

James Lavin
65 High Ridge Road # 339
Stamford, CT 06905

ART UNIT	PAPER NUMBER
2166	

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/604,345	LAVIN ET AL.
	Examiner	**Art Unit**	
	Emeka Ebirim	2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>14 July 2003</u>.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-13</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-13</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>14 November 2003</u> is/are: a)☐ accepted or b)☒ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date <u>07/14/2003</u>.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Status

1.   The application has been examined. Claims 1-13 are rejected as detailed below and are pending in this office action.

Drawings

The drawings are objected to because they do not contain the figure label. For example Fig 1, Fig 2 etc. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2.   Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The Examiner also suggests the removal of the TITLE of the invention from the Abstract page.

The application papers are objected to because the application paper fonts are oversized. A font size of 12 would be adequate. A legible substitute specification in compliance with 37 CFR 1.52(a) and (b) and 1.125 is required.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

Claims 7 - 10 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

Claims 7, 9 recite the limitation "high probability" in the claim. There is

insufficient antecedent basis for this limitation in the claim.

Claims 7-10 recite the limitation "predict" or "prediction" in the claim. There is

insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

To be statutory, a claimed computer-related process must either: (A) result in a physical
transformation outside the computer for which a practical application is either disclosed
in the specification or would have been known to a skilled artisan, or (B) be limited to a
practical application with useful, concrete and tangible result.

5.   Claims 11-13 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

Claims 11-13 are not statutory because they merely recite a number of

computing steps without producing any tangible result and/or being limited to a practical

application. These claims are directed to a system, however all components are

software and thus lacking the necessary hardware for any functionality to be realized.

The claims do not indicate use of hardware on which the software runs to perform the steps recited in the body of the claim. Software or program can be stored on a medium and/or executed by a computer. A useful, concrete, and tangible results must be either specifically recited in the claim or flow inherently therefrom. To be useful the claimed invention must establish a specific, substantial, and credible utility. To be concrete the claimed invention must be able to produce reproducible results. To be tangible the claimed invention must produce a practical application or real world result. As such, the claims are not limited to statutory subject matter and are therefore non-statutory.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8.   Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Pub. No. US 2002/0042789 to Michalewicz et al (hereinafter Michalewicz), in view of

Pub No. US 2003/0014483 to Stevenson et al (hereinafter Stevenson).

Claim 1.

        Michalewicz discloses:

        A method of collecting information on a data aggregation service comprising the

steps of: a) a data acquisition application sending a request to a third party computer;

(data acquisition module which is capable of retrieving information from web sites (third

party computer)) [see Michalewicz Col 5 paragraph 0083] b) said third party computer

sending a response to said data acquisition application; ((data acquisition module which

is allowed to retrieve information from web sites (third party computer)) [see

Michalewicz Col 5 paragraph 0083]   c) said data acquisition application sending to a

data aggregation service at least some of the information contained in said response;

(data preparation module (data aggregation) processes data retrieved by the data

acquisition module) [see Michalewicz Col 5 paragraph 0086] and d) said data

aggregation service storing at least some of the information contained in said at least

some of the information contained in said response received from said data acquisition

application. (storing of the information) [see Michalewicz Col 5 paragraph 0087]

        Michalewicz discloses the elements of claim 1 as disclosed but it does not

explicitly indicate "data aggregation".

Stevenson discloses the claimed "data aggregation" (content aggregation) [see Stevenson Col 3 paragraph 0030]

It would have been obvious to one of ordinary skill in the art, at the time of the present invention, to have combined the teachings of the cited references because the content aggregation (data aggregation) of Stevenson's disclosure would have allowed Michalewicz's system to manage the acquisition and distribution of content as business requirements and network technologies evolve. Content aggregation (data aggregation) as disclosed by Stevenson improves to meet the requirement for content type, presentation and services as well as providing greater control of factors such as security and control of content. [see Stevenson Col 1 paragraph 0004, 0007]

Claim 2.

The combination of Stevenson and Michalewicz discloses the elements of claim 1 as noted above and furthermore Michalewicz discloses said request to a third party computer initiates the process. [see Stevenson Col 2 paragraph 0033]

Claim 3.

Michalewicz discloses the elements of claim 2 as noted above and furthermore it discloses said request to a third party computer incorporates information specific to said data acquisition application's owner or said data acquisition application's operator. (adaptation to the various sites and specific customer needs is considered during the acquisition process) [see Stevenson Col 5 paragraph 0084]

Claim 4.

Michalewicz discloses the elements of claim 1 as noted above and furthermore it

discloses said data aggregation service sends a request to said data acquisition

application that said data acquisition application then utilizes to prepare said request to

a third party computer. [see Michalewicz Col 5 paragraph 0086]

Michalewicz discloses the elements of claim 1 as disclosed but it does not

explicitly indicate "data aggregation".

Stevenson discloses the claimed "data aggregation" (content aggregation) [see

Stevenson Col 3 paragraph 0030]

It would have been obvious to one of ordinary skill in the art, at the time of the

present invention, to have combined the teachings of the cited references because the

content aggregation (data aggregation) of Stevenson's disclosure would have allowed

Michalewicz's system to manage the acquisition and distribution of content as business

requirements and network technologies evolve. Content aggregation (data aggregation)

as disclosed by Stevenson improves to meet the requirement for content type,

presentation and services as well as providing greater control of factors such as security

and control of content. [see Stevenson Col 1 paragraph 0004, 0007]

Claim 5.

The combination of Michalewicz and Stevenson discloses the elements of claim

4 as noted above and furthermore Michalewicz discloses said request to said data

acquisition application incorporates information known by said data aggregation service

relating to said data acquisition application or said data acquisition application's owner

or said data acquisition application's operator. (Information received through data

acquisition is used to further refine the data retrieval process) [see Michalewicz Col 3

paragraph 0059]

Claim 6.

The combination of Michalewicz and Stevenson discloses the elements of claim

5 as noted above and furthermore Michalewicz discloses said request to said data

acquisition application contains sufficient information that said data acquisition

application can generate said request to a third party computer without utilizing

additional information specific to said data acquisition application's owner or said data

acquisition application's operator. (sending of preferred (sufficient) information) [see

Michalewicz Col 3 paragraph 0058]

Claim 7.

The combination of Michalewicz and Stevenson discloses the elements of claim

4 as noted above and furthermore Michalewicz discloses said data aggregation server

increases the speed or efficiency of information collection by not issuing at least one

said request to said data acquisition application that said data aggregation server

predicts will return redundant information with high probability. (Redundant information

is eliminated to enhance the system) [see Michalewicz Col 1 paragraph 0008, 0015]

Claim 8.

The combination of Michalewicz and Stevenson discloses the elements of claim

7 as noted above and furthermore Michalewicz discloses said data aggregation

application makes predictions by utilizing its knowledge of information already acquired

and stored in said data aggregation server and/or information it possesses specific to

one or more said data acquisition application owners or said data acquisition application

operators. (data acquisition is done based on the specific information provided by the

administrator (operators)) [see Michalewicz Col 5 paragraph 0084]

Claim 9.

The combination of Michalewicz and Stevenson discloses the elements of claim

6 as noted above and furthermore Michalewicz discloses said data aggregation server

increases the speed or efficiency of information collection by not issuing at least one

said request to said data acquisition application that said data aggregation server

predicts will return redundant information with high probability. (Redundant information

is eliminated to enhance the system) [see Michalewicz Col 1 paragraph 0008, 0015]

Claim 10.

The combination of Michalewicz and Stevenson discloses the elements of claim

9 as noted above and furthermore Michalewicz discloses said data aggregation

application makes predictions by utilizing its knowledge of information already acquired

and stored in said data aggregation server and/or information it possesses specific to

one or more said data acquisition application owners or said data acquisition application

operators. . (data acquisition is done based on the specific information provided by the

administrator (operators)) [see Michalewicz Col 5 paragraph 0084]

Claim 11.

Michalewicz discloses:

A system for collecting information from one or more third party computers

comprising: a data aggregation service (data preparation) [see Michalewicz Col 5

paragraph 0086]; a data acquisition application [see Michalewicz Col 5 paragraph

0086]; a third party computer (web site) [see Michalewicz Col 5 paragraph 0083]; a data

sharing connection between said data acquisition application and said third party

computer capable of transmitting a request from said data acquisition application to said

third party computer and capable of transmitting a response from said third party

computer to said data acquisition application (data sharing connection for sharing

information) [see Michalewicz Col 3 paragraph 0056]; and a data sharing connection

between said data acquisition application and said data aggregation service capable of

transmitting at least some of the information contained in said response from said data

acquisition application to said data aggregation service. (data sharing connection for

sharing information) [see Michalewicz Col 3 paragraph 0056]

Michalewicz discloses the elements of claim 11 as disclosed but it does not

explicitly indicate "data aggregation".

Stevenson discloses the claimed "data aggregation" (content aggregation) [see Stevenson Col 3 paragraph 0030]

It would have been obvious to one of ordinary skill in the art, at the time of the present invention, to have combined the teachings of the cited references because the content aggregation (data aggregation) of Stevenson's disclosure would have allowed Michalewicz's system to manage the acquisition and distribution of content as business requirements and network technologies evolve. Content aggregation (data aggregation) as disclosed by Stevenson improves to meet the requirement for content type, presentation and services as well as providing greater control of factors such as security and control of content. [see Stevenson Col 1 paragraph 0004, 0007]

Claim 12.

The combination of Michalewicz and Stevenson discloses the elements of claim 11 as noted above and furthermore Michalewicz discloses said data sharing connection between said data acquisition application and said data aggregation service also is capable of transmitting a request from said data aggregation service to said data acquisition application. (transfer (transmit) of information) [see Michalewicz Col 7 paragraph 0131]

Claim 13.

Michalewicz discloses a method for facilitating automated acquisition of data from computer-based network data sources by means of one or more data aggregation

servers and a distributed network of one or more client computers (each operated by

and/or on behalf of one or more end users). (a method of data acquisition through a

network (Internet) which is aided by data aggregation (data preparation)) [see

Michalewicz Col 3 paragraph 0056, 0058]

Michalewicz discloses the elements of claim 13 as disclosed but it does not

explicitly indicate "data aggregation".

Stevenson discloses the claimed "data aggregation" (content aggregation) [see

Stevenson Col 3 paragraph 0030]

It would have been obvious to one of ordinary skill in the art, at the time of the

present invention, to have combined the teachings of the cited references because the

content aggregation (data aggregation) of Stevenson's disclosure would have allowed

Michalewicz's system to manage the acquisition and distribution of content as business

requirements and network technologies evolve. Content aggregation (data aggregation)

as disclosed by Stevenson improves to meet the requirement for content type,

presentation and services as well as providing greater control of factors such as security

and control of content. [See Stevenson Col 1 paragraph 0004, 0007]

Conclusion

9.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. See the accompanying PTO-892 form.

Contact Information

10.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emeka Ebirim whose telephone number is 571-272-3994. The examiner can normally be reached on 8:30pm - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Name: Emeka Ebirim
Art Unit: 2166

HOSAIN ALAM
SUPERVISORY PATENT EXAMINER